

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

4.10 CITING & REFERENCING THE CORE RULES

Date: May 25, 2001

I. Background

As part of the ongoing effort to make WISHA rules both more accessible and more understandable, the WISHA Core Rules (Chapter 296-800 WAC) will take effect September 1, 2001. At the same time, several portions of Chapters 296-24 WAC and 296-62 WAC will be repealed. In addition, the occupational health requirements being removed from Chapter 296-62 WAC are being incorporated into the Agriculture Standard (Chapter 296-307 WAC).

In Chapter 296-24 WAC, the repealed sections include the general educational, medical and first aid requirements (Part A-1), general personal protective equipment requirements (Part A-2), means of egress requirements (Part G-1), fire protection requirements (portions of Part G-2), and fire suppression equipment requirements (Part G-3) as well as portions of the walking surfaces, floor and wall opening and ladder requirements (Part J-1). The Core also includes the most general of the electrical requirements from Part L, but these requirements have *not* been repealed from Chapter 296-24 WAC.

In Chapter 296-62 WAC, the repealed requirements include the employer chemical hazard communication requirements (portions of Part C); language relating to material safety data sheets as exposure records (portions of Part B); requirements regarding lighting (portions of Part J-1), and the environmental tobacco smoke requirements (portions of Part L).

II. Scope and Application

This WISHA Regional Directive (WRD) applies to all WISHA enforcement and consultation activities involving Chapter 296-800 WAC. It replaces all previous guidance, whether formal or informal, and will remain in effect indefinitely.

III. Special Enforcement and Consultation Protocols

A. How should the bullets found in Chapter 296-800 WAC be referenced or cited?

Bullets are found in several existing WISHA standards (the Agriculture Standard and the Respiratory Protection Standard, among others). When referencing such bullets (in correspondence, etc.), it may be useful to identify the bullet if there are a number of them (for example, "the third bullet under WAC 296-800-12005 requires....").

To cite a violation from the Core (or reference it in a consultation report), WISHA staff must record the complete code number. The bullet does not need to be specifically identified – however, when quoting the standard in relation to the described violation, only those portions relevant to the actual circumstances should be quoted.

B. If an employer violates more than one bullet under a particular section or subsection, should they be cited separately?

No. Separate bullets under a section or subsection are considered elements of a single violation and should not be cited separately. Only those items that have been individually numbered can be cited separately.

C. Are separate bullets treated as separate “instances” for WISHA purposes?

Not necessarily. If a single act by the employer failed to comply with two separate bullets, it is still a single instance (for example, if an employer’s on-the-job orientation failed to address two of the required elements, that would be a single instance of insufficient orientation).

D. If an employer violates more than one numbered subsection under a single code section, should they be cited separately?

Yes, unless they can appropriately be grouped under the existing grouping policy. Separately numbered subsections are to be treated as separate violations (even though they may achieve a similar purpose or provide additional protection against a similar hazard).

E. How should repeat violations be identified, since similar violations will previously have been cited using a different code?

Repeat violations exist whenever the previous violation under consideration involves a “substantially similar condition,” regardless of the particular code cited (see WISHA Compliance Manual, IV-B.2.f (1) and (2)). For this reason, violations of the related “parts” in Chapters 296-24 WAC and 296-62 WAC can be the basis for repeat violations cited under Chapter 296-800 WAC. The inspector must determine whether the violation in question represents a “substantially similar condition” and cite any repeats accordingly.

F. How should failure-to-abate violations be identified?

Failure-to-abate violations are appropriate whenever the previous violation has not been corrected as required, regardless of whether the same code was cited in the previous instance (see WISHA Compliance Manual, V-C.12). For this reason, the employer’s failure to abate violations of the related “parts” in Chapters 296-24 WAC and 296-62 WAC can be cited using the appropriate code in Chapter 296-800 WAC.

G. How should electrical violations of both Chapter 296-800 WAC and Chapter 296-24 WAC, Part L be cited?

If the employer has committed violations of only those electrical requirements found in Chapter 296-800 WAC, the Core Rule requirement should be cited alone. If an employer has violated requirements of Chapter 296-24 WAC, Part L that are not also part of the Core Rule, the Part L requirement should be cited for all violations, with the Core Rule requirement referenced in the violation text where it is applicable (it is not necessary to cite the Core “in the alternative”).

Approved: _____

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.lni.wa.gov/wisha>).